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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,907	10/31/2003	Jonas Frisen	21882-529 UTIL	3627

7590 04/10/2006

Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.
The Chrysler Center
666 Third Avenue, 24th Floor
New York, NY 10017

EXAMINER

GAMETT, DANIEL C

ART UNIT	PAPER NUMBER
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1647

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/698,907	FRISEN ET AL.	
	Examiner	Art Unit	
	Daniel C. Gamett, PhD	1647	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-58 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-11, in part, drawn to a method of alleviating a symptom of a disorder characterized by reduced levels of hematopoiesis comprising administering a soluble ephrin, classified in class 514, subclass 12.
 - II. Claims 1 and 5, in part, drawn to a method of alleviating a symptom of a disorder characterized by reduced levels of hematopoiesis comprising administering a small molecule ephrin inhibitor, classified in class 514, subclass dependent on the molecule.
 - III. Claims 12-21, in part, drawn to a method of alleviating a symptom of a disorder characterized by reduced levels of hematopoiesis comprising: administering an antibody or affibody that specifically binds to an ephrin, classified in class 424, subclass 143.1.
 - IV. Claims 12-21, drawn to a method of alleviating a symptom of a disorder characterized by reduced levels of hematopoiesis comprising: administering an antibody or affibody that specifically binds to an ephrin receptor, classified in class 424, subclass 143.1.
 - V. Claims 22-32 and 43-54, each in part, drawn to a method of alleviating a symptom of a disorder characterized by an abnormal level of cellular proliferation in a tissue: administering a soluble ephrin, classified in class 514, subclass 12.

- VI. Claims 22, 26, 43, and 48, each in part, drawn to a method of alleviating a symptom of a disorder characterized by an abnormal level of cellular proliferation in a tissue: administering a small molecule ephrin inhibitor, classified in class 514, subclass dependent on the molecule.
- VII. Claims 33-42, in part, drawn to method of alleviating a symptom of a disorder characterized by increased levels of cellular proliferation in an intestinal tract comprising: administering an antibody or affibody that specifically binds to an ephrin, class 424, subclass 143.1.
- VIII. Claims 33-42, in part, drawn to method of alleviating a symptom of a disorder characterized by increased levels of cellular proliferation in an intestinal tract comprising: administering an antibody or affibody that specifically binds to an ephrin receptor, class 424, subclass 143.1.
- IX. Claims 55-58, drawn to a method for alleviating a symptom of a disorder characterized by abnormal levels of cellular proliferation in a tissue comprising: administering a soluble ephrin receptor, class 514, subclass 12.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions I-IX are unrelated, each to the other. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). Each of inventions I-IX is a distinct method. The methods of Inventions I-IV are directed toward

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disorders characterized by reduced levels of hematopoiesis whereas Inventions V-IX are directed toward disorders characterized by increased levels of cellular proliferation.

Therefore Inventions I-IV have different modes of operation, different functions, different effects, and are not disclosed as capable of use together with any of Inventions V-IX. Soluble ephrin, a small molecule, an antibody or affibody that specifically binds to an ephrin, an antibody or affibody that specifically binds to an ephrin receptor, and a soluble ephrin receptor are physically and chemically distinct, and have different modes of operation.

Therefore, Inventions I-IV and Inventions V-IX are distinct each from the other as they recite these distinct agents of treatment.

3. Because these inventions are distinct for the reasons given above, have acquired a separate status in the art because of their recognized divergent subject matter, and the search required for any of Group I-IX is not required for other of Group I-IX, restriction for examination purposes as indicated is proper.
4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel C Gamett, Ph.D., whose telephone number is 571 272 1853. The examiner can normally be reached on M-F, 8:30-5:00.

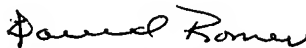
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback can be reached on 571 272 0961. The fax phone number for the organization where this application or proceeding is assigned is 571 273 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DCG

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5 April 2006


DAVID S. ROMEO
PRIMARY EXAMINER